

FELICELLO

Michael James Maloney
Partner

Felicello Law P.C.
366 Madison Avenue
3rd Floor
New York, NY 10017

Tel. +1 (212) 584-7806
mmaloney@felicellolaw.com

VIA ECF

October 13, 2022

Hon. Victor Marrero
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Baliga, et al. v. Link Motion Inc., et al.*, Case No. 1:18-cv-11642-VM-DCF (S.D.N.Y.)

Dear Judge Marrero:

We write regarding the direct legal malpractice action by Link Motion Inc. entitled *Link Motion Inc. v. DLA Piper LLP (US), et al.*, which has now been removed from state court to this Court and assigned Case No. 1:22-cv-8313 (the “Direct Malpractice Action”).

In the Court’s October 7, 2022 Decision and Order, the Court ruled that the meeting held by the Board of Directors of Link Motion Inc. (“Link Motion”) on or about September 1, 2022 (at which the Board decided to assume control over the legal malpractice claim asserted in the Direct Malpractice Action) violated the orders that the Court issued in this action. *See* Dkt. 365. Notwithstanding this finding, the Court declined to “rule that the meeting and vote was a ‘nullity and its actions had no force or effect,’” *id.* at 11, noting that the Direct Malpractice Action is now related to this action and pending before this Court. The Court also ordered that the Board of Directors was restrained from “tak[ing] any action not directed by the court-appointed receiver, Robert Seiden (‘Receiver’), until after the Receiver has been fully discharged upon the Court’s approval of the Receiver’s final accounting.” *Id.* at 11-12.

As we read the Court’s October 7, 2022 ruling, the Board no longer has authority to act in respect of the Direct Malpractice Action. We also read the October 7, 2022 ruling as precluding this firm from continuing to represent Link Motion in connection with the Direct Malpractice Action. Accordingly, this firm has not appeared as counsel for Link Motion in the Direct Malpractice Action.

On October 10, 2022, Nancy Hart, counsel for Defendants in the Direct Malpractice Action (the “DLA Defendants”) requested by email that this firm withdraw the Direct Malpractice Action. Because we read the Court’s October 7, 2022 decision as depriving us of any authority to act on behalf of Link Motion in respect of the Direct Malpractice Action absent direction from the Receiver, we forwarded Ms. Hart’s email to counsel for the Receiver. By email dated October 12, 2022, counsel for the Receiver declined to take action with respect to the Direct Malpractice Action, referring to the Court’s prior directives to maintain the status quo. Last night, counsel for the DLA Defendants sent by email a copy of a pre-motion letter that they filed in the Direct Malpractice Action. Copies of the foregoing email correspondence and pre-motion letter are attached as Exhibits 1 and 2.

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Accordingly, in the interests of maintaining the status quo, we respectfully request that the Court enter an order in the Direct Malpractice Action staying all proceedings and deadlines in that action until sixty (60) days following discharge of the Receiver in this action.

Respectfully submitted,

/s/ Michael James Maloney

Michael James Maloney

cc: All counsel of record (via ECF)
Nancy Hart, Esq. (by email with attachments)

Attachments